

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

ORLANDO PAUL, #231996,)	Civil Action No. 4:20-cv-2071-SAL-TER
)	
Plaintiff,)	
)	
-vs-)	
)	ORDER
)	
OFFICER WINGARD, WARDEN)	
STEPHON, SYLVIA ROBERTS,)	
and MRS. GAMBREL,)	
)	
Defendant.)	
_____)	

I. INTRODUCTION

Presently before the court are Plaintiff's Motion to Compel (ECF No. 24), Motion to Appoint Counsel (ECF No. 25), Motion for Default Judgment (ECF No. 33), Motion for Copy of Complaint (ECF No. 43) and Motion to Amend Complaint (ECF No. 49). All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 73.02(B)(2)(d), DSC.

In his Motion to Compel, Plaintiff asked the court to compel Defendants Stephan and Roberts to produce information regarding Defendants "Officer Wingard" and "Mrs. Gambrel" to allow for service on these defendants. In their response to the motion and a subsequent status update, counsel for Defendants Stephan and Roberts indicated that they were authorized to accept service on behalf of Rodney Wingard and Melissa Gambrell. The undersigned entered an order directing Plaintiff to notify the court whether these were the individuals he intends to name as Defendants in this action. Plaintiff filed a Motion to Amend his Complaint indicating he had no reason to doubt that the individuals identified by Defendants, Rodney Wingard and Melissa Gambrell, were the proper

Defendants for this action. He asked that the complaint be amended to reflect “Officer Wingard” as Rodney Wingard and “Mrs. Gambrell” as Melissa Gambrell. Plaintiff’s Motion to Amend (ECF No. 49) is **GRANTED** only to the extent that the clerk of court is directed to reflect on the docket that “Officer Wingard” is Rodney Wingard and “Mrs. Gambrell” is Melissa Gambrell. **Defendants’ time to file an answer or otherwise plead will run from the date of this order and in accordance with the Federal Rules of Civil Procedure.** Plaintiff’s Motion to Compel (ECF No. 24) is **DENIED** as moot. Plaintiff’s Motion for Default Judgment (ECF No. 33), in which he seeks default judgment against Wingard and Gambrel, is likewise **DENIED** as moot.

Plaintiff has also filed a Motion to Appoint Counsel. There is no right to appointed counsel in § 1983 cases. Cf. Hardwick v. Ault, 517 F.2d 295, 298 (5th Cir. 1975). While the court is granted the power to exercise its discretion to appoint counsel for an indigent in a civil action, 28 U.S.C. § 1915(e)(1); Smith v. Blackledge, 451 F.2d 1201 (4th Cir. 1971), such appointment should be allowed only in exceptional cases. Cook v. Bounds, 518 F.2d 779, 780 (4th Cir. 1975). Plaintiff has not shown that any exceptional circumstances exist in this case. This is a typical complaint by a prisoner seeking to pursue a civil case pro se in federal court, and after a review of the file, there are no exceptional or unusual circumstances presented which would justify the appointment of counsel, nor would Plaintiff be denied due process if an attorney was not appointed. Whisenant v. Yuam, 739 F.2d 160 (4th Cir. 1984). Through his filings to date, Plaintiff has exhibited an ability to litigate this case. Accordingly, Plaintiff’s Motion to Appoint Counsel (ECF No. 25) is **DENIED**.

Plaintiff’s Motion for Copy of Complaint (ECF No. 43) is **GRANTED** and the clerk’s office is directed to send Plaintiff a copy of his complaint along with this order.

IT IS SO ORDERED.

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

November 10, 2020
Florence, South Carolina